

Sultanate of Oman
Ministry of Commerce and Industry
Muscat



سلطنة عمان
وزارة التجارة والصناعة
مسقط

Ref: MCI/MD/ 369

Date: 8 May 2006

The Honorable Robert J. Portman
United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508
United States of America

Dear Ambassador Portman:

I am pleased to provide this letter addressing labor laws and other labor measures in the Sultanate of Oman. The information and commitments set out in this letter reflect the results of consultation; that representatives of my Government have held over the past several months with you, your staff, and certain Members of Congress and their staff in connection with the labor provisions of the Oman-United States Free Trade Agreement.

As you know, Oman adopted new labor legislation in 2003 (Royal Decree 35/2003) ("Labor Law") that provides a broad range of rights and protections for workers. My Government took this step following a comprehensive internal consultation process ("Shura Consultations") pursuant to the Basic Law of the Sultanate (Articles 9 and 10), as well as after in-depth consultations with the International Labor Organization ("ILO"). My Government has also ratified several of the core ILO conventions and is consulting closely with the ILO in order to improve further on the labor rights protections provided under Omani law, consistent with core labor standards.

Consistent with Oman's policy of pursuing improvements in the area of labor rights, we welcome the interest of your Government in our labor laws and practices and the opportunity to clarify how they apply, as well as to affirm our commitment to adopting laws and practices that are consistent with core labor standards.

Regarding the right of workers in Oman to organize and bargain collectively, Oman reaffirms that workers have the right, as provided in the Labor Law and consistent with ILO Convention 98, to form representative committees in the establishments in which they work and to bargain collectively. My Government is currently considering ways to improve the Labor Law in order

to enhance its consistency with ILO Convention 98 and is consulting with the ILO on this topic. After completing Shura Consultation with interested parties (i.e., the Council of Oman, Council of Ministers, Chamber of Commerce and Industry, representative committees, and other interested parties), and consistent with ILO Convention 98, Oman will:

- Issue a Royal Decree no later than October 31, 2006, that will require employers to engage in collective bargaining over terms and conditions of employment, including wages and hours of work.
- Issue a Ministerial Decision no later than October 31, 2006, ensuring that penalties for anti-union discrimination are adequate to deter acts of discrimination.
- Undertake efforts to increase employer and employee awareness of the protection that Omani law provides for engaging in union activity.
- Issue a Ministerial Decision no later than October 31, 2006, clarifying Article 106 of the Labor Law, which pertains to wrongful termination. The Ministerial Decision will make explicit that wrongful termination includes termination for engaging in lawful union activity. Moreover, the Government of Oman reaffirms that an employee wrongfully terminated due to lawful union activity may be reinstated at his or her option and receives back pay.
- Issue a Royal Decree no later than October 31, 2006, amending Labor Law Articles 108-110 to reflect that workers in Oman may form more than one representative committee to represent them in their relations with a single enterprise. They have the right to have more than one main representative committee and that each establishment-level representative committee may decide which, if any, of the main representative committees to join.

Regarding the right to strike, Omani law was amended in 2003 to remove the prohibition on strikes. Recent experience confirms that:

- Workers are aware that strikes are now legal, as evidenced for example, by the fact that 33 strikes were undertaken in 2004, involving almost 6000 workers; and
- The Government has not prosecuted any worker or their representative committees for participating in lawful strikes.



Nonetheless, in order to clarify Oman's law on this topic, following Shura Consultations, my Government will issue a Royal Decree no later than October 31, 2006, that will make explicit that workers have the right to strike and ensure that procedural requirements, including mediation and conciliation requirements do not restrict or impede the lawful exercise of that right, consistent with ILO Convention 87.

With respect to freedom of association for workers and concerns regarding government interference in representative committee activities, Oman will immediately begin Shura Consultations for the purpose of amending Ministerial Decisions 135/2004 and 136/2004 by no later than October 31, 2006, in order to remove all government involvement in representative committee activities, consistent with ILO Conventions 87 and 98.

During consultations with your Government, questions were raised about a reference to compulsory labor in Article 12 of Oman's Basic Law. In fact, Article 12 generally prohibits forced ("compulsory") labor, and Oman is a party to ILO Conventions 29 on forced labor and 105 on abolition of forced labor. While Article 12 does contemplate the extraordinary possibility of requiring public service for a fair wage, that power has never been exercised. In order to clarify Omani law, policy, and practice with respect to compulsory labor, following Shura Consultations my Government will issue a Royal Decree, no later than October 31, 2006, specifying forms of public service that could be required in the event the Government were ever to exercise its power under Article 12, consistent with ILO Convention 29.

In addition, concerns have been expressed regarding the extent to which my Government has enforced an Omani law that prohibits employers from withholding documents of foreign workers. To address those concerns, Oman will immediately enhance its enforcement of the law in question and will issue, no later than October 31, 2006, regulations that will further improve that enforcement, consistent with ILO Convention 29. Such regulations will explicitly prohibit employers from withholding of passports and other documents that release workers from employment contracts.

With respect to fines that may be imposed on persons that violate Omani restrictions on child labor, Oman has initiated consultations with the ILO and will, following Shura Consultations, adopt a Royal Decree no later than October 31, 2006. The Royal Decree will enhance the effective enforcement of the relevant provisions of Omani law that prohibit the worst forms of child labor, including by establishing dissuasive penalties, consistent with ILO Convention 182.

Consistent with our ongoing efforts to educate workers, employers, and government officials about their rights and responsibilities under Oman's labor law, my Government will undertake

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appropriate outreach efforts about changes in the law that I have described above in order to ensure that working people in Oman are aware of and understand their rights consistent with basic ILO principles.

Finally, I wish to offer three points of clarification in response to questions your Government has raised about the operation of Omani law. First, I wish to make clear that if Omani law does not prohibit a particular activity, such as engaging in labor strikes, that activity is legal (see, e.g., Article 29 of the Basic Law).

Second, I wish to clarify the status of Ministerial Decisions under our domestic law. Under our system, a Ministerial Decision has the force and effect of law in implementing Omani statutes (which we refer to as Royal Decrees). When Ministerial Decisions are in conflict with one another, the provisions of the more recent Decision prevail to the extent of the conflict. All proposed Ministerial Decisions are fully consistent with and enforceable under existing Royal Decrees.

Lastly, I wish to clarify our understanding of the relationship between the commitments set forth in this letter and those set forth in our bilateral Free Trade Agreement. Oman will consider the actions I have described in this letter as matters arising under Chapter 16 of the Agreement and subject to consultations pursuant to Article 16.6 of that Agreement.

I trust that you will view this letter as a good faith effort to clarify Omani law, policy, and practice with respect to labor rights and to respond to questions and concerns on that subject in a constructive manner. Oman has been and hopes to remain a strong and reliable ally of the United States in a challenging region of the world. We firmly believe that the Free Trade Agreement between our two countries, achieved in a spirit of respect for our distinct sovereign rights and obligations, will be a matter of historic significance for the future interests of our two nations.

Yours Sincerely,

(MAQBOOL ALI SULTAN)
MINISTER OF COMMERCE & INDUSTRY